

**Arizona Department of Revenue**  
**UNIVERSITY RESEARCH & DEVELOPMENT TAX CREDIT**  
**Program Guidelines**

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**Section 1. Overview**

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The University Research & Development Tax Credit (A.R.S. §§ 43-1074.01(A)(1)(c) and 43-1168(A)(1)(d)) was established by legislation during the 2011 Second Special Session and amended by Laws 2012, Chapter 3, Sections 46 and 53 (SB 1045). An individual income tax credit and a corporate income tax credit were created for taxpayers that make basic research payments during the taxable year to a university under the jurisdiction of the Arizona Board of Regents. Universities under the jurisdiction of the Arizona Board of Regents are Arizona State University, Northern Arizona University and the University of Arizona.

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**Section 2. Authorization Requirements**

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An income tax credit is available if all of these requirements are met:

- Applicant must have a written, signed contract for research and development with Arizona State University, Northern Arizona University or the University of Arizona for research to be conducted after January 1, 2012.
- Applicant must have a copy of a receipt from the university for basic research payments made after January 1, 2012.
- Applicant requests credit approval by submitting an Application after the end of the taxable year in which the payment(s) to the university was(were) made.
- Applicant receives a Letter of Approval certifying the credit amount from the Arizona Department of Revenue (ADOR).

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**Section 3. Income Tax Credit Limitations**

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**1.** ADOR cannot approve more than \$10 million in income tax credits for a calendar year. The \$10 million limit is for the individual income tax credit and corporate income tax credit combined. Once the \$10 million credit limitation is reached, no additional tax credits may be approved, even if the amounts that have been approved are not claimed.

**2.** Only Applications for credit for payments made in the taxable year will be accepted. Both the payments and the research must occur after January 1, 2012.

*EXAMPLE: Taxpayer A contracts with ASU for a research and development project that will begin in 2013. This project will not be completed in one year. Taxpayer A makes a payment to ASU in 2013 for research and development in 2013. The calculation of the credit for tax year 2013 includes basic research payments made in 2013, regardless of when the research is conducted. Payments made in 2014 cannot be included in the calculation of the credit until tax year 2014 is complete.*

**3.** No Applications will be accepted for credit approval prior to the first business day after the end of the Applicant's taxable year.

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#### **Section 4. Calendar Year Limitation Management**

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1. ADOR may approve \$10 million in income tax credits for a calendar year. An Applicant may submit an Application after completion of the taxable year.
2. Applications received by ADOR will be approved on a first come, first served basis.
3. ADOR will only accept Applications through Express Mail. Express Mail, through the United States Post Office, has a time and date noted on the envelope that allows ADOR to place the Application in time and date order.
4. Applications will be accepted beginning January 2012 but the taxable year for which the credit is being requested cannot have begun prior to January 1, 2012. Therefore, the only Applications for credit approval that can be submitted in calendar year 2012 will be for short taxable years (less than 12 months) that began January 1, 2012, or later.
5. An Applicant with a tax year that begins in one calendar year and ends in another calendar year must submit an Application for the calendar year's credit cap the Applicant's tax year begins within.

*EXAMPLE: If the Applicant's taxable year begins October 1, 2013, the Application must be submitted for the 2013 credit cap. The Applicant may NOT choose to apply for the 2014 credit cap if the credit cap has been exhausted for 2013.*
6. If an Applicant realizes that basic research payments occurred within a taxable year that would have made the Applicant eligible to apply for this credit but the tax return for that taxable year has been filed, the Applicant may still apply for the credit for that taxable year. The Application for a prior taxable year will be considered if there is still credit available under the credit cap for that calendar year. (The Applicant will only be able to use a credit approved for a prior taxable year if an amended return can be filed for that taxable year within the statute of limitations period.)

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#### **Section 5. Application Process**

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The Application should be submitted after the end of the taxable year. The Application must include the Form 346 Additional Credit for Increased Research Activities for Basic Research Payments, with Part II completed. (Forms are not available until late in the calendar year. Applicants with short taxable years ending earlier than December 31 will not be able to submit their Application until the credit forms are available.)

The Application shall include:

1. Name, address, and social security number or employer identification number of the Applicant.
2. The business structure of the Applicant. Is the Applicant a C corporation, an S corporation, a sole proprietorship, a partnership or a limited liability company(LLC)? If the Applicant is an LLC, how is the LLC taxed at the federal level?
3. If this credit will be passed through to shareholders or partners, a separate sheet of paper should be attached listing the names of the shareholders or partners, with social security numbers or employer identification numbers and percent of expenses. The credit is passed through to shareholders or partners based on their proportionate share of expenses.

4. The Applicant's taxable year-end. If the taxable year is for less than 12 months, the taxable year being date.
5. A contact person, with title, phone number and fax number. If this person is not a corporate officer, a Power of Attorney should be included for the contact.
6. For each university contract, the name of the university, the contact person at the university, the total amount of payment due for the contract, and the amount paid within the taxable year for which the credit is being claimed. A copy of the contract and a copy of the receipt for payment from the university must both be attached.
7. An affidavit signed by an officer of the Applicant. For a sole proprietorship, the individual must sign the affidavit. By signing the affidavit, the officer agrees that the information contained in the Application is true and correct under penalty of perjury.

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## **Section 6. Application Processing**

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1. Only Applications sent through the United States Postal Services Express Mail will be accepted. No Applications will be accepted through any other delivery methods.
2. All Express Mail Applications should be sent to:  
Arizona Department of Revenue  
University Research & Development Tax Credit  
P.O. Box 25248  
Phoenix, Arizona 85002
3. Each Application will be assigned a placement number that reflects the date and time on the Express Mail label.
4. If multiple Applications have the same date and time on their Express Mail label, they will be put in order through a process of a random, blind draw.
5. If the Application is reviewed and determined to be invalid or in some way not eligible for the credit, the Application will be denied. *APPLICATIONS THAT DO NOT INCLUDE ALL REQUIRED INFORMATION ARE INVALID AND WILL NOT BE ACCEPTED.*
6. If an Application is denied, the Applicant may submit a second Application that corrects the problem for which the first Application was denied. The new Application will be assigned a placement number based on date and time mailed.
7. The only Application that is guaranteed approval is the complete Application with the earliest time and date stamp. This is because there is no Application limit for the amount of credit approved other than \$10 million credit cap. The first Application may qualify for all \$10 million, leaving no credit available for other Applications.
8. If approval for the full amount of credit of an Application would require ADOR to exceed the \$10 million dollar credit limit, ADOR will approve only the remaining credit amount that would not exceed the \$10 million credit limit.

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**Section 7. Appeal Process**

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If ADOR denies approval or approves less credit than the amount requested on an Application, the Applicant may appeal the decision in accordance with A.R.S. Title 41, Chapter 6, Article 10. The Applicant may appeal this decision; however, the denial prohibits the Applicant from claiming a tax credit under this program unless the appeal is successful.

If ADOR denies approval or approves less credit than the amount requested on an Application, ADOR will reserve the amount of credit requested by the Applicant from the credit cap, in the event that an appeal from the Applicant is upheld. If the appeal is not upheld and a smaller amount of credit or no credit is approved by ADOR, the reserved credit amount will be allocated to the next eligible Applicant(s).

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**Section 8: Following Approval**

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ADOR will notify the Applicant of the amount of credit to which the Applicant is entitled. A Letter of Approval will be transmitted to the Applicant, certifying the approved tax credit amount.

If an Applicant is denied approval for an Application, the amount of the credit denied is reserved, as stated in Section 7. A list will be maintained of other Applications that were received and are complete so that if the denied Applicant exhausts its appeal rights, the reserved credit can be allocated to later Applications.

When the taxpayer files its income tax return, a copy of the Letter of Approval must be attached to the tax form with Arizona Form 346. If the credit is being passed through to partners or shareholders, each partner or shareholder must attach a copy of the Letter of Approval to their income tax return along with Arizona Form 346 to claim the credit. If the tax liability is less than the credit amount approved, the unused portion of the credit can be carried forward for five years. This is not a refundable credit.

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**Section 9. Definition of Terms**

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For purposes of applying for the University Research & Development Tax Credit, the following terms are either defined by ADOR or defined in Arizona Revised Statutes or defined in the Internal Revenue Code. If a term is not defined, the most commonly accepted meaning will apply. For purposes of this program:

1. "Applicant" means a C corporation, a unitary group of corporations, an Arizona affiliated group as defined in A.R.S. § 43-947(l)(2), a limited liability company, an S corporation, a sole proprietorship, or a partnership.
2. "Application" means the ADOR form "Application for Approval of the University Research and Development Tax Credit" and all required attachments that demonstrate eligibility for the tax credit.

3. "Basic Research Payment" means, with respect to a taxable year, any amount paid in cash during the taxable year to a qualified organization for research and development but only if the payment is pursuant to a written agreement and the research and development is to be performed by the qualified organization.
4. "Credit cap" means the annual tax credit limit of \$10 million in A.R.S. §§ 43-1074.01(A)(1)(c) and 43-1168(A)(1)(d).
5. "Letter of Approval" means a letter issued to the Applicant by the Arizona Department of Revenue (ADOR) certifying the amount of credit the Applicant may claim when filing its Arizona tax return.
6. "Qualified organization" means a university under the jurisdiction of the Arizona Board of Regents. Universities under the jurisdiction of the Arizona Board of Regents are Arizona State University, Northern Arizona University and the University of Arizona.
7. "Taxpayer" means an individual, a corporation, an S corporation, a partnership or a limited liability company. A unitary group required to file a combined return shall be treated as a single taxpayer. An Arizona affiliated group required to file a consolidated return shall be treated as a single taxpayer.

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